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C O N F I D E N T I A L SECTION 01 OF 03 PHNOM PENH 000957

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SUBJECT: CAMBODIA, UNHCR, AND THE UIGHURS: THE MADNESS OF
THE METHOD (PART I)

REF: A. PHNOM PENH 954 (DEPORTATION SCENARIO)
 1B. PHNOM PENH 953 (NOTAL)
 1C. PHNOM PENH 934 (UIGHURS MOVE AGAIN)
 1D. PHNOM PENH 926 (AMBASSADOR MEETING WITH DPM SAR
 KHENG)
 1E. PHNOM PENH 925 (UPDATE ON UIGHUR ASYLUM-SEEKERS)
 1F. PHNOM PENH 913 (AMBASSADOR MEETING WITH UNHCR)

Classified By: Charge d'Affaires a.i. Theodore Allegra; Reasons 1.4 (B,
D)

11. (C) SUMMARY: In a joint demarche on Deputy Foreign Minister Long Visalo December 21, Ambassadors and Charge strongly protested the deportation of 20 Uighur asylum seekers on December 19, noted that the deportation had occurred despite repeated assurances by senior Cambodian officials that it would not, and sought renewed assurances that Cambodia would not deport persons seeking refugee status in the future before their cases had been determined. Visalo blamed the result on the repeated failings of UNHCR to accept and assert its traditional role and cooperation with the Royal Government of Cambodia (RGC) in handling sensitive refugee cases, and asserted that - after waiting for months for appropriate UNHCR action - the RGC had no choice but to deport the group as illegal entrants under Cambodian immigration laws. This is Part I of a two-part message; a report on a meeting by the same group on the same day with UNHCR Regional Director Raymond Hall is Septel. END SUMMARY.

12. (SBU) Charge joined British Ambassador Andrew Mace in a demarche to Cambodian Acting Foreign Minister Long Visalo December 21 to protest the deportation of 20 Uighur asylum seekers to China on December 19. Ambassador Mace also represented the European Union for purposes of the demarche, and the resident ambassadors from Australia and Germany also participated.

PROTESTS, ASSURANCES, AND CREDIBILITY

13. (C) Mace thanked Visalo for his active involvement in this case during a very busy weekend, but registered his strong disappointment that his urgent request to meet Prime Minister Hun Sen before the deportation occurred was not accepted. He noted the EU and UK's strong condemnation of the RGC decision to deport the group prior to a credible determination of their refugee status as required by international law. He added neither the UK nor the EU took a position as to whether the entire group, or a portion of it, would ultimately have been eligible for refugee status, but said that Cambodia's actions disregarded the process entirely and thus the protections under the Refugee Convention were not afforded to the group. Emphasizing that Cambodia's decision had been especially disappointing given the "continuing assurances and specific undertakings made to UNHCR and others by RGC officials" that a credible and legitimate process would be

followed for the group, Mace concluded that the Cambodian decision appeared to be arbitrary. As a result, he looked forward to Visalo's accounting of the issue and why a "wholesale abandonment" of its refugee responsibilities took place.

¶4. (C) All other diplomats present echoed and joined with Ambassador Mace's remarks. In addition, Australian Ambassador Margaret Adamson asked whether the world should expect to witness "a repetition of breaches by Cambodia," and sought assurances about the future status of "those who remain under protection" in Cambodia. German Ambassador Frank Mann stressed his dismay about the seemingly intentional unavailability of senior RGC officials during the weekend to address this critical issue.

¶5. (C) Charg noted that the United States had reaffirmed its strong opposition to involuntary return of this group of asylum seekers in several meetings with RGC officials in recent weeks. Each time, the government assured the United States that the group would not be deported and that the RGC would cooperate with UNHCR to process these cases in accordance with international refugee principles. He highlighted the positive remarks made by Deputy Prime Minister Sar Kheng to Ambassador Rodley on this issue only the day before the deportation process began (Ref D), and asked Visalo how the deportation could not put into question the government's credibility on this issue. It was especially regrettable, Charg added, that Cambodia deported this group to a state which is also signatory to the refugee convention. Finally, Charge underscored the concern expressed by the Australian Ambassador about those who remain

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in Cambodia under protection of UNHCR legal process as persons of concern or otherwise, and asked for assurances that they would not be deported without the benefits of the international protections to which they were entitled.

UNHCR DELAYS AND FAILURES GAVE THE RGC NO CHOICE

¶6. (C) An unusually nonconfrontational Long Visalo said that the RGC remained committed to implementing the refugee convention in accordance with international standards, but criticized UNHCR for the "many problems" that arose in this case. He argued that the UNHCR had provided "no official notification" of the group (Note: an assertion vehemently denied later that day by UNHCR. End Note.), and said that the government only learned that the group was in Cambodia from media reports, including Radio Free Asia. Citing the successes in resettling scores of Montagnard refugees from Vietnam, he argued there was a "big difference" in how UNHCR coordinated with the government in this case. As a result, Visalo asserted that the Uighurs were determined to be illegal immigrants in Cambodia and had to be deported.

¶7. (C) Visalo continued to blame UNHCR for the debacle he seemed to instinctively understand his government's action had created. He said he asked the UNHCR protection officer Toshitsuki Kawaudi (Toshi) on December 10 why UNHCR had not informed the government and why it had delivered "persons of concern" letters without consultation. He insisted to UNHCR that it therefore accept "control" over the group and assume responsibility for its safety and security, a request that he said was forthrightly dismissed by UNHCR because none of the group "had been designated as refugees." Again referring to the successful resettlement of Montagnard cases, Visalo said he regretted that what he had learned from those cases - that speed was essential to a successful process in sensitive cases - was not apparent in how UNHCR handled this group, which was characterized by "no information and no responsibility."

¶8. (C) By December 14, he said the situation had become "more acute" and, in a meeting between Deputy UNHCR Regional

Representative Giuseppe de Vincentis, the RGC officially agreed to "joint control" of the group (REF F). But Visalo said he was still "not satisfied" because the UNHCR did not accept the practicalities of what that control meant. Accordingly, he said he told de Vincentis that "if you don't accept control over this group, we will send them out of the country." Quite animated, Visalo said that he emphasized the need for an expeditious process to determine refugee status, and that process had not even begun yet despite the fact that one of the group had been in Cambodia since June and the others had been in country for at least a month - "enough time to have good cooperation," he stressed. Thus, he said he told de Vincentis that the group "would be considered as illegal entrants and processed pursuant to immigration law" if UNHCR did not act to discharge its responsibilities as it had in the past. Two days later, on December 16, the group was moved in order to afford more protection for them (Ref A). At that time, Visalo and UNHCR discovered that two of the group had gone missing. "Where are the others?," Visalo said he asked Toshi; Toshi replied that he "didn't know." Thus, Visalo concluded that it was abundantly clear that UNHCR had neither the willingness nor the ability to "control" the group as refugee status determinations proceeded.

¶9. (C) Concluding, Visalo said he regretted what had happened but, under the circumstances it was necessary "in order to protect our immigration laws." He asserted that Cambodia had wanted cooperation with UNHCR in this case, and assured his objective remained to have fruitful cooperation with UNHCR in future cases in accordance with refugee convention principles. He noted that Cambodia fully understood "its obligations under the treaty," had always recognized those obligations in the past, and remained prepared to implement its obligations in the future. To that end, he said he was hopeful that this case would provide good lessons of how to avoid problems in the future.

¶10. (C) In response, UK Ambassador Mace underscored the need for close cooperation with UNHCR and the need for RGC credibility in the assurances that it provided to the international community about future cooperation. But whatever procedural shortcomings of UNHCR may have existed in this case, they did not invalidate the rights of individuals to the protections afforded them under international law. Moreover, there is "no incompatibility" between domestic

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immigration laws and the international refugee convention, as the latter clearly states that immigration violations are not grounds to avoid protection responsibilities for those seeking asylum. Charg added that Cambodia had many opportunities to raise with the United States and others in the diplomatic community whatever UNHCR deficiencies may have existed before taking a decision to deport the group, and never did so. Ambassador Adamson echoed that point, and stressed there had been "clear signals from many capitals" that alternatives existed to deportation but, because the government did not appear to consider them, practical solutions to resolve the government's frustrations with UNHCR were not possible.

¶11. (C) COMMENT: Long Visalo is no stranger to international law, is usually a technocrat in his approach to legal issues, and has had numerous opportunities in the past to implement the refugee convention properly and in accordance with internationally accepted practice. Thus, it is perhaps a surprise that he didn't resort to familiar tactics to argue the law with his interlocutors, but that he based his defense to what he knew in advance would be a difficult meeting on the failures of UNHCR to do what the RGC expected it to do. Much of the international and NGO community actually shares at least some of Visalo's view about how UNHCR seemed to abdicate its usual role in this sensitive case, but the fact remains that the RGC had many opportunities to highlight its frustrations and many alternatives to consider short of

deportation. That it chose not to do so is likely a reflection of the urgencies compelled by rampant publicity, persistent frustrations with UNCHR, and pressure from China in the runup to Vice President Xi Jinping's visit to Cambodia on December 20 (in which USD 1.2 billion in bilateral assistance was at stake). We will analyze these issues in greater detail in coming days but, for now at least, it appears that Cambodia ran out of time and patience and felt compelled to take urgent action at the eleventh hour - knowingly discarding its responsibilities under international law in the process. And because the RGC likely did not anticipate in advance the strength of international reaction to its decision, it is not surprising that Visalo's focus on assurances of future cooperation with UNHCR is the best he can muster under the circumstances. END COMMENT.

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